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adversely to this family. And I hold that it is not proved that the second defendant was Khazi of Chennapatnam. There is evidence on his side that this jaghir was claimed by him, but on the failure of Abu Backer's heirs it did not go to him but to some other Khazi who is known as Government Khazi. With regard to this office of Khazi it would seem that, as I have said before, a Khazi was appointed for Madras by the Nawab Anwaruddin and a member of Abu Backer's family was recognized as Khazi of Madras by the East India Company about 1770 as recorded in Colonel Loves' book and there is said to be at the present day a person who is styled 'Government Khazi'. But it is in evidence that at the present day there are many Khazis in Madras and that anybody can act as a Khazi who can get Muhammadans to recognize him as such and to avail themselves of his services as Khazi. According to the evidence there are no less than four Khazis in Georgetown. Both the plaintiff and the second defendant sought to prove that each had succeeded Hamid Uddin as Khazi. On this part of the case I think the advantage rests with the second defendant who proved that he had, long before the death of Hamid Uddin at the age of 80, fulfilled all the functions of Khazi and that he was accepted, after Hamid Uddin's death by the congregation, that is, by the people assembled at the funeral as Khazi. The plaintiff also gave some evidence, which I am unable to accept, that he was also appointed at the funeral of Hamid Uddin. But he produced registers which showed that he had also acted as Khazi and that a considerable number of people availed themselves of his services as Khazi, and he produced the register which he kept as Khazi and there was other evidence that he was known as Khazi. Both the plaintiff and the second defendant are known respectively as Khazi Hafiz Abdul Aziz and Khazi Muhammad Faziuddin Sahib. The second defendant however has, in my opinion, failed to prove, either that he is entitled to the office of Khazi of Chennapatnam if such office exists at the present day, or that this, the superintendence of this charity, was attached to the office of Khazi. The superintendence of the endowment seems, admittedly, to have been always in this family and, so far as the evidence goes, the members of this family also discharged the functions of Khazi. But that is a very different thing from saying that the superintendence of the charity was in any way annexed to the office of Khazi, and the conduct of the second defendant, which I have already alluded to, in taking no part in the affairs of the charity until this Rs. 3,000 compensation turned up, shown in my opinion that he never affected to have any connexion with this endowment until this question arose.

Now it remains to be considered whether the plaintiff has established his title to the office of Muthavalli, that is to say to the superintendence of the charity. The evidence is that during his father's lifetime he acted as Peishimam and Kathib of the mosque and that since his death he has been in the charge of the mosque. He has erected certain buildings on the mosque property and been in receipt of the rents from those properties though he has not been in receipt of the suits of the other properties which remained in possession of the 1st defendant. It is shown that all the improvements and additions which have been made to the structure have been made with his assistance and under his direction; and it is not shown that any one else has been in management of the charity. An endeavour was made on the part of the defendants to show that the mosque was distinct from the Eadga, but that has altogether failed. What appears is that about

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seventy years ago the Nawab erected a mosque on this Eadga-ground, but that would not have the effect of altering the management of the endowment. There is nothing inconsistent in erecting a mosque or place of prayer on a ground which was already intended for prayer. And then we have the statements which the 1st and the 2nd defendants made to the Revenue Inspector of the Municipality to show that what they claimed was to be 'trustees' of the mosque. Mr. Grant was naturally anxious to keep this piece of evidence out, because he saw that it was quite fatal to the case which was made for the defendants. Now the plaintiff says: he has not only been in management of the mosque and has been actually exercising the duties of the Muthavalli, but he rests his claim upon an alleged appointment by his father. The law as to the title to the office of Muthavalli has recently been considered in this Court. The Muhammadan Law allows of the office being hereditary but does not favour that mode of descent and requires it to be very strictly proved. On the other hand, it easily presumes that an existing Muthavalli has a right to appoint his successor. Now there is a good deal of oral evidence for the plaintiff that he was appointed by his father, which is corroborated by the fact that he has since exercised the duties of the office and is also corroborated by a petition Exhibit D, which was put in to Government asking for a continuance of the grant of Rs. 10 for purposes of the mosque which his predecessors had received. In that petition which is signed by his brothers he is stated to have been appointed by his father to succeed to all his offices. I see no reason to doubt, this so far as the mosque is concerned. As far as I can see the probability is that the father divided the things as well as he could among his sons and his nephew who had been assisting him; he left one the school, he left this man the mosque and I am inclined to think that he sought to leave the revenues of the mosque to the 1st defendant who is since enjoying them. That is the best explanation I can arrive at of the otherwise inexplicable fact that the first defendant has been allowed to enjoy these revenues for all these years. Now I do not know whether a mosque can be made to descend in one family with a right of nomination from among the members of that family. If that is a lawful mode of descent that was the mode of descent established here in the absence of any further evidence. But if that is not a lawful mode of descent then I think we may presume that the existing Muthavalli had the right to appoint his successor without any such restriction and that not unnaturally, he always appointed a member of his own family. That accounts for the office having continued in one family for so long.

The conclusion I have come to is that the plaintiff has sufficiently established his case as Muthavalli. The first defendant does not set up any adverse title to the mosque property except that he has a lien for taxes paid by him to the municipality; but it is not shown that anything is due to him for taxes, nor is any legal ground put forward on which such a lien could be founded. There will be a decree giving the plaintiff the declarations prayed for and directing the 1st and 2nd defendants to account for the mosque properties which have come into their hands—chiefly the 1st defendant—and a decree for possession of the properties of the mosque in favour of the plaintiff.

There is an alternative prayer for the settlement of a scheme. I do not think I could settle a scheme in the absence of the Advocate-General as representing the interests of the public seeing that the suit is not one brought

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under the provisions of section 92 of the Civil Procedure Code. Should a scheme be necessary it is always open to bring a suit for that in the usual way. It is, I think, quite clear that there has been a good deal of irregularity with regard to this mosque. But that cannot affect my judgment as to the legal rights of the parties to this suit. There will, therefore, be a judgment for plaintiff with costs.

(Initialed) J.P.W.,
1-12-13.

Certified to be a true copy.

Dated this 13th day of December 1913.

(Signed) S. G. HENSMAN,
Acting Second Assistant Registrar.

APPENDIX V.

[Vide answer to question No. 1424 asked by Mr. A. B. Shetty at the meeting of the Legislative Council held on the 25th January 1928, page 246 supra.]

Report of the Collector of South Kanara, D. Dis. No. 7860-27,
dated 15th November 1927.

Question No. 929 (888) (b).—*Whether Government are aware that the havoc done by wild beasts has been steadily increasing in recent years.*

I have not received any general complaints from villagers regarding any increased havoc by wild beasts.

Taluk.	Number of cattle destroyed.		
	1924.	1925.	1926.
Mangalore ..	228	208	217
Kasaragod ..	628	556	601
Puttur ..	1,031	1,030	1,447
Udipi ..	368	280	274
Coondapoor ..	573	596	736
Karkal ..	762	748	975
Total ..	3,590	3,418	4,250

	1922.	1923.	1924.	1925.	1926.
Number of persons killed by wild animals.	18	8	8	8	Nil.

When I go into camp no one ever brings me word of recent kills by tigers or panthers. What I hear of is damage by monkeys and pigs. The Tabsildars who were asked to consult big ryots in the matter do not report having received such complaints. There is certainly some increase in the number of cattle destroyed by wild animals in 1926 in the taluks of Puttur, Coondapoor and Karkal as the figures noted in the margin for three years show. I am not able to explain the sudden increase in 1926.